

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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WRIT PETITION No.20103 of 1999

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Dated : 19.04.2007

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Between:

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M/s Mahalakshmi Salt Works, Kakinada,
represented by its Partner K.V.V.Prasada Rao.

... PETITIONER

And:

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Government of Andhra Pradesh, rep., by its
Principal Secretary, Revenue Department,
Secretariat Buildings, Hyderabad and others.

....RESPONDENTS

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ORDER:

When this matter was taken up for hearing on 17.04.2007, learned counsel for the petitioner submitted that this matter is squarely covered by an order of this Court, dated 10.02.2005, passed in W.P.No.589 of 1995. The learned Government Pleader for Revenue sought time to ascertain as to whether this matter is covered by the said order or not. Hence, the matter was adjourned. Today, the learned Government Pleader also submitted that this writ petition can be disposed of in terms of the said order.

In the order referred to above, a learned Single Judge of this Court observed that Section 5 of the Indian Ports Act, 1908 empowers the Government to alter the limits of any port, but the same is subject to rights over the private properties. Even Section 10 of the Act, which

empowers the conservator for removal of obstructions, timber, raft, etc., in the limits of the port, but the said power is also subject to rights over the private properties. Therefore, the notification for extension of port limits shall be subject to rights of the holders of such private property. It was further observed that as the notification, impugned therein, does not indicate any specific land with survey number to be brought within the limits of the port, and in view of the averment in the counter that there is no interference and only for the purpose of marking limits of the port, survey was made, the learned Judge disposed of the said writ petition directing the respondents therein not to interfere with the possession of the petitioner therein over his land without following due process of law, however, the respondents were granted liberty to acquire the said land if it is required for port limits, as per the procedure contemplated under law.

The facts in the instant case are akin to the facts in the said case. Further, it is also submitted by the learned Government Pleader that there was no interference and only for the purpose of marking limits of port, survey was made.

In the light of the above, the writ petition is disposed of directing the respondents not to interfere with the possession of the petitioner over the land in question, without following due process of law. However, it is made clear that if the land in question is required for port limits, it is open for the respondents to acquire the same as per the procedure contemplated under law. There shall be no order as to costs.

19.04.2007

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